

No. 11(112)-80-3Lab/10784.—In pursuance of the provision of section 17 the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s Jai Hind Investment and Industries (P) Limited, Faridabad :—

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA FARIDABAD.

Reference No. 216 of 1978

between

SHRI RAM RATTAN WORKMAN AND THE MANAGEMENT OF M/S JAI HIND
INVESTMENT AND INDUSTRIES, (P), LTD., FARIDABAD.

Present.—

Shri P. K. De, for the workman.

Shri. R. C. Sharma, for the management.

AWARD

By order No. 31706, dated 11th July, 1978, the Governor of Haryana referred the following dispute, between the management of M/s. Jai Hind Investment and Industries (P) Ltd, Faridabad and its workman Shri Ram Rattan, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Dispute Act :—

Whether the termination of services of Shri Ram Rattan was justified and in order? If not, to what relief is he entitled ?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, following issues were framed on 22nd May, 1979 :—

- (1) Whether the workman was a temporary ? If so, with what effect ?
- (2) Whether the termination of services of the workman was justified and in order ?
- (3) Whether the workman is gainfully employed ? If so, to what effect ?

And the case was fixed for the evidence of the management, who examined MW-1, Shri Mahavir Parshad and closed their case. Then the case was fixed for the evidence of the workman, who examined himself and closed his case. Arguments were heard. I, now give my findings issue wise :—

Issue No.1 :—MW-1 stated that the workman was a temporary hand. He produced Ex. M-1 to M-7. The workman stated that he was appointed on 18th April, 77 as Mixer Driver. I have gone through Ex.M-1 and appointment letter dated 18th April, 77. It is signed by the concerned workman. The appointment is temporary as Mechanical helper at a salary of Rs. 7-50 per day. The appointment is from 18th April, 77 to 17th October, 77. Ex. M-2 is extension of temporary period of service for three months. Thus it is clear from these documents that the workman was temporary. This issue is decided accordingly.

Issue No. 2 :—MW-1 stated that the factory was engaged in the manufacture of P. C. C. Poles used by Electricity Board. The work is allotted by tenders. The quantum of work fluctuates from time to time because it wholly depends from outside orders. The strength of the workmen depends upon the work load. The factory depended electric power. In cross examination he stated that at the time of removing the workman from service they pay them full and final. WW-1 stated that he was appointed on 18th April, 1977 as Mixer Driver at Rs. 225/- p. m. There was no cause of complaint to the management. His services were terminated because he formed a union of workers. He was terminated from service from 18th January, 1978. He produced Ex.W-1 and W-2 In cross examination he stated that he did not serve anywhere else nor he served as a Mixer Driver else where. He denied his signatures on Ex.M-1, M-2 and M-7. He stated that he was middle pass. Some times he also signed in English. He denied his signatures on W-1 and W-2 also. The representative for the management argued that the workman did not file any claim statement nor any rejoinder. He also argued that the workman was deposing against his appointment letter in which his appointment is as Mechanical helper @ Rs. 7.50 per day and not Rs. 225/- p. m. He was for a fixed period. Because the management had no work, therefore, he was removed from service. The action of the management was legal in view of 1976 Lab. 1. C. page 1092. The representative for the workman stated that workman was victimised due to his union activities, and his case was that of retrenchment as held in 1980 II LLJ page 72. On the evidence above discussed, I find that the termination is a termination simpliciter and the ruling cited by the representative of the workman was not applicable in this case. He served only for

about nine months. As regards victimisation a bald statement of the concerned workman will not prove the same. It should have been proved by cogent evidence. Therefore, I, decide this issue in favour of the management.

Issue No. 3 :— The management did not lead any evidence on this issue. In view of finding given on issue No. 2, there is no necessity to decide this issue.

Dated the 18th September, 1980.

M. C. BHARDWAJ.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 868, dated 19th September, 1980.

Forwarded (for copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 11(112)-80-3 Lab/10785.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s. Rattan Chand, Harjas Rai, (Mouldings), Private Ltd., N.I.T., Faridabad.

BEFORE SHRI M.C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD.

Reference No. 166 of 1977

between

SHRI BALWANT SINGH, WORKMAN AND THE MANAGEMENT OF M/S. RATTAN CHAND, HARJAS RAI, (MOULDINGS) PVT. LTD., N.I.T., FARIDABAD.

Present.—Shri Amar Singh Sharma, for the workman.

Shri R.C. Sharma, for the management.

AWARD

By order No. ID/FD/992-76/44881, dated 11th October, 1977 the Governor of Haryana referred the following dispute between the management of M/s. Rattan Chand, Harjas Rai (Mouldings), Pvt. Ltd., N.I.T., Faridabad and its workman Shri Balwant Singh, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Balwant Singh was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, following issues were framed on 20th April, 1980:—

1. Whether the Government had rejected the demand earlier?
2. Whether it was incumbent on the Government to hear the management prior to reference the dispute after when it had rejected the earlier?
3. Whether the termination of services of the workman concerned was justified and in order? If not, to what relief is he entitled?

And the case was fixed for the evidence of the management, who examined Shri R.B. Jain as MW-1 and closed their case. Then the case was fixed for the evidence of the workman, who examined himself as his own witness as MW-1, and closed his case. Arguments were heard. I, now give my findings issues wise:—

Issues No. 1 and 2:— These issues were not pressed by the parties. There is no necessity to give findings on these issues.

Issue No. 3:—W-1 Shri R. B. Jain stated that he was Works Director of the management. The workmanⁿ was given appointment letter Ex. W-2 on an application form submitted by the workman which is Ex. W-1. His services were terminated,—vide Ex. W-3 which bear his signatures. He further stated that he had brought attendance and payment register. The name of the workman appears in the register with effect from date of appointment as given in Ex. W-1 and W-2. In cross examination he stated that he had received complaint regarding the work of this workman from the subordinate staff. He was warned 2-3 times. No written complaint was received. Therefore, warning was given verbally. He denied the suggestion that because the workman had demanded dearness allowance, therefore, his name was removed from service. The workman stated that he was appointed on 19th August, 1974 as a turner. Ex. M-1 was his past experience certificate. He had demanded dearness allowance according to the settlement of the year 1976. He filed an application before the Labour Court for payment of dearness allowance. For this reason his services were terminated. He denied his signatures on Ex. M-1 and M-2. In cross examination he stated that he made an application at the time of his appointment. No appointment letter was given to him. Ex. M-1 was the same application which he had submitted at the time of his appointment. But it did not bear his signature. He admitted his signatures on Ex. M-3. He further stated that there was no proof with him of the dearness allowance case. He admitted that he did not receive letter of confirmation nor he received any increments.

I have gone through Ex. M-1 and M-2. The date of appointment is shown in this letter as 19th August, 1975. Whereas the workman in his claim statement and in his own statement in the court has given it as 19th August, 1974. But he has not given any documentary proof of this. I admit the version of the management as correct. The workman has a service of about nine months at his credit. The representative for the management cited 1976 Lab. I.C. 960 and 1092. The representative for the workman cited 1976 Lab. I. LLJ page, 478 and argued that the workman has completed 240 days of service. He also cited 1964 I LLJ page 9 and 1980 II, LLJ, page 72. In 1976 Lab. I.C. page 960, in which it is held that a person who has completed period of probation and has not been confirmed in that post still continues to be on probation. It cannot be said that because the order of termination of services used the expression unsatisfactory business performance and irregular work habits and misconduct, it amounts in any way, to a stigma on the probationer. In 1976 Lab. I.C. page 1092 it is held that appointment for a fixed period comes to an end automatically after completion of that period. Letter Ex. W-1 shows the period of probation to be nine months. However, the column special remarks to be filled by the employer is blank. Even column "appointed on" and "engaged by" are also blank. So much so this is not signed by any official or the employer. As regards W-2 which is offer of appointment, condition No. 4 says that the appointment is on probation for a period of six months. In case he is not confirmed the period of probation will be deemed to have been extended for three months. Thus it is clear that the column showing probation period nine months in Ex. W-1 was not filled in at that time of appointment. It runs in contradiction of Ex. W-2. The representative for the workman argued that the case was of victimisation because the workman had filed an application under section 33-C(2) for payment of dearness allowance according to earlier statement. WW-1 has admitted this fact to the extent that dearness allowance was payable to the workman working in the factory at the time of settlement only. It seems that the concerned workman was under a wrong impression that he was also entitled to such allowance. His zest may be bonafide. Only ruling cited as 1964 I, LLJ, page 9 is applicable to this case in which their Lordships of the Supreme Court have held as under:—

"The services of a probationer, held, do not come to an end automatically at the expiry of the probation period, within the period of probation the services of a probationer, held, could not be dispensed with except on the ground of misconduct or other sufficient reasons."

Services of this workman has been terminated not on the completion of extended period of probation but prior to it, therefore, the order is bad in law. The issue is decided against the management.

While answering the reference, I give my award that the termination of services of the workman was neither justified, nor in order. The workman is entitled to reinstatement with continuity of service and with full back wages.

Dated the 16th September, 1980

M.C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

No. 865, dated 19th September, 1980.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,

Presiding Officer,

Industrial Tribunal, Haryana,
Faridabad.